

1-1 By: Ellis S.B. No. 2214  
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read  
1-3 first time and referred to Committee on Jurisprudence; May 4, 2009,  
1-4 reported adversely, with favorable Committee Substitute by the  
1-5 following vote: Yeas 4, Nays 0; May 4, 2009, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 2214 By: Carona

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to a filing fee imposed on a notice of foreclosure sale to  
1-10 fund civil legal services for indigents.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter B, Chapter 118, Local Government  
1-13 Code, is amended by adding Section 118.026 to read as follows:

1-14 Sec. 118.026. NOTICE OF FORECLOSURE SALE. (a) A county  
1-15 clerk shall collect a \$150 fee for a notice of sale filed under  
1-16 Section 51.002(b)(2), Property Code, from the holder of the  
1-17 security instrument, unless the holder is the original grantee of  
1-18 the security instrument. If a property has more than one notice of  
1-19 sale filed for the property and the fee has not been refunded under  
1-20 Subsection (e), the county clerk may not collect more than one \$150  
1-21 fee from the holder of the security instrument under this  
1-22 subsection.

1-23 (b) The county clerk shall keep a separate record of the  
1-24 fees collected under this section and shall remit the fees to the  
1-25 county treasurer not later than the deadline provided by Section  
1-26 113.022. The county may retain not more than five percent of the  
1-27 fees for the county's costs for implementing and administering this  
1-28 section.

1-29 (c) On or before the last day of the month following each  
1-30 calendar quarter, the county treasurer shall remit to the  
1-31 comptroller the money from all fees collected during the preceding  
1-32 quarter, except as provided by Subsection (b) or (e).

1-33 (d) The comptroller shall deposit the money received under  
1-34 Subsection (c) in the judicial fund for programs approved by the  
1-35 supreme court that provide basic civil legal services to the  
1-36 indigent.

1-37 (e) The county treasurer shall refund a \$150 fee collected  
1-38 under Subsection (a) not later than the 60th day after the date the  
1-39 refund is requested if:

1-40 (1) the foreclosure sale is canceled; and  
1-41 (2) the holder of the security instrument provides to  
1-42 the county clerk:

1-43 (A) documentation establishing that the  
1-44 foreclosure sale was canceled; and

1-45 (B) an affidavit signed by a designated  
1-46 representative of the holder of the security instrument indicating  
1-47 that the holder has not received reimbursement from the mortgagor  
1-48 for the fee.

1-49 SECTION 2. The change in law made by Section 118.026, Local  
1-50 Government Code, as added by this Act, applies only to a notice of  
1-51 sale filed on or after the effective date of this Act. A notice  
1-52 filed before the effective date of this Act is governed by the law  
1-53 in effect when the notice was filed, and the former law is continued  
1-54 in effect for that purpose.

1-55 SECTION 3. This Act takes effect immediately if it receives  
1-56 a vote of two-thirds of all the members elected to each house, as  
1-57 provided by Section 39, Article III, Texas Constitution. If this  
1-58 Act does not receive the vote necessary for immediate effect, this  
1-59 Act takes effect September 1, 2009.

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